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Paper No. 12

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AUG 05 2002

OFFICE OF PETITIONS

In re Application of
Kalman
Application No. 09/894,077
Filed: 28 June, 2001
Attorney Docket No. RPS920000119 US1

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: **DECISION ON PETITION**
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This is a decision on the petition filed on 22 April, 2002, styled "Petition to Withdraw Erroneous Notice of Omitted Item(s)," and properly considered under 37 C.F.R. §1.53, requesting that Figures 3A and 3B, as described in the specification, be accorded a filing date of 28 June, 2001.

The petition is **GRANTED**.¹

The application was deposited (Express Mail No. EF272757360US) on 28 June, 2001, and the record contains the transmittal sheet indicating that the papers to be submitted included "Drawings - Five (5) sheets," however, initial review of the application indicated that Figures 3A and 3B, as described in the specification, were absent from the application.

The Office mailed on 11 March, 2002, a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that while a filing date had been accorded to the application as filed, it appeared that Figures 3A and 3B, as described in the specification, were absent from the application. The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed a response on 22 April, 2002, with the instant petition, a copy of the Office-stamped filing receipt card, a copy of the entire application as alleged to have been filed--including a copy of documents identified as Figure 3A and 3B, authorization to charge the petition fee, and the required copy of the Notice.

The copy of the date stamped (28 June, 2001) receipt card (with Office bar code and application number) filed with the instant petition indicates that the application was filed with, *inter alia*, five sheets of drawings.

A new review of the application papers reveals that prior to the instant petition the record

¹ The petition fee (\$130.00) charged to Petitioner's Deposit Account 50-0563 upon filing is credited back to that deposit account..

contained five sheets of drawings, with no duplications, one of which contained a figure identified as Figure 3A and one of which contained a figure 3B.

A review of the above-described receipt card reflects the Office receipt of documents, *inter alia*, "6. Five (5) sheets of drawings[.]"

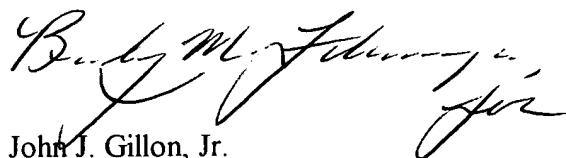
The return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503 and, further, a new review of the application file reveals the presence of Figures 3A and 3B upon filing on 28 June, 2001. Therefore the Office concludes that five sheets of drawings, including pages containing Figures 3A and 3B, were filed on 28 June, 2001, and that the sheets of drawings containing Figures 3A and 3B were not observed on initial review.

Accordingly, the petition is **granted**.

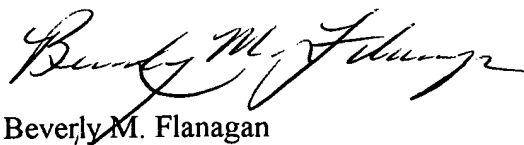
The Notice of Omitted Items mailed on 11 March, 2002, hereby is withdrawn.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 28 June, 2001, using the five sheets of drawings filed on 28 June, 2001, with an indication on the PALM bib data sheet that five sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions, at (703)305-9199.



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